

MORGAN, LEWIS & BOCKIUS LLP
Nicole A. Diller (State Bar No. 154842)
Donald P. Sullivan (State Bar No. 191080)
Andrew C. Sullivan (State Bar. No. 226902)
One Market, Spear Street Tower
San Francisco, California 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001

Attorneys for North Star Trust Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, LORA SMITH,
and TOSHA THOMAS

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;
K-M INDUSTRIES HOLDING CO., INC.
ESOP PLAN COMMITTEE; WILLIAM
E. AND DESIREE B. MOORE
REVOCABLE TRUST; TRUSTEES OF
THE WILLIAM E. AND DESIREE B.
MOORE REVOCABLE TRUST;
ADMINISTRATOR OF THE ESTATE OF
WILLIAM E. MOORE, DECEASED; CIG
ESOP PLAN COMMITTEE; and NORTH
STAR TRUST COMPANY,

Defendants.

Case No. C06-07339 CW

**DEFENDANT NORTH STAR TRUST
COMPANY'S AMENDED
ADMINISTRATIVE MOTION FOR AN
ORDER TO FILE DOCUMENTS UNDER
SEAL RELATED TO NORTH STAR
TRUST COMPANY'S MOTION FOR
SUMMARY JUDGMENT RE STATUTE
OF LIMITATIONS**

1 TO EACH PARTY AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT pursuant to Local Rules 7-11 and 79-5 of the Northern
3 District of California, North Star Trust Company, by and through its undersigned counsel of
4 record, hereby moves for an administrative order to file certain documents and portions of
5 documents under seal.

6 The parties stipulated to, and the Court entered, a Protective Order on March 16, 2007.
7 Docket No. 29 ("Protective Order"). Under the terms of the Protective Order, a party may
8 designate documents or testimony as "confidential" or "highly confidential – attorneys' eyes
9 only." In the North Star's memorandum supporting its Motion for Summary Judgment re Statute
10 of Limitations, North Star relies upon the documents and testimony so designated, the particulars
11 of which are identified in the accompanying Declaration of Nicole A. Diller in Support of North
12 Star's **AMENDED** Administrative Motion for an Order to File Documents Under Seal. Pursuant
13 to the Protective Order, a party seeking to file confidentially-designated documents or
14 information must comply with Local Rule 79-5 to seek the sealing of the documents. For the
15 reasons stated above, North Star requests the documents referenced in the accompanying
16 Declaration of Nicole A. Diller be sealed.

17
18 Dated: June 26, 2008

Respectfully submitted,

19 MORGAN, LEWIS & BOCKIUS LLP

20
21 /S/ Nicole A. Diller

22 Nicole A. Diller
23 Donald P. Sullivan
24 Andrew C. Sullivan

25
26 Attorneys for Defendant North Star Trust
27 Company

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Case No. C06-07339 CW

**DECLARATION OF NICOLE A. DILLER
IN SUPPORT OF DEFENDANT NORTH
STAR TRUST COMPANY'S AMENDED
ADMINISTRATIVE MOTION FOR AN
ORDER TO FILE DOCUMENTS UNDER
SEAL**

1 I, Nicole A. Diller, declare and state as follows:

2 1. I am a partner with the law firm of Morgan, Lewis & Bockius LLP (“Morgan
3 Lewis”), attorneys of record for Defendant North Star Trust Company. I am licensed to practice
4 law in the State of California and have been admitted to practice in the Northern District of
5 California. Except as otherwise indicated, I have direct and personal knowledge of the facts set
6 forth in this Declaration and, if called and sworn as a witness, I would competently testify to these
7 facts.

8 2. I make this declaration under Local Rules 7-11 and 79-5 in support of Defendant’s
9 **AMENDED** Motion for an Administrative Order to File Documents under Seal Related to
10 Defendant’s Motion For Summary Judgment Re Statute of Limitations.

11 3. The parties in this action stipulated to a Protective Order, which this Court
12 approved on March, 16, 2007. *See* Docket No. 29 (“Protective Order”). Under the Protective
13 Order, a party may designate documents or testimony as “confidential” or “highly confidential –
14 attorneys’ eyes only,” and documents or testimony so designated must be filed under seal.

15 4. Morgan Lewis’ records reflect that the following documents or portions of
16 documents were designated as “confidential” or “highly confidential – attorneys’ eyes only”
17 under to the Protective Order:

18 a. Exhibits 7, 20, 21, 22, 23, 41, 42, 44, 46, 52, 55, 57, 59, 60, 61, 71, and 73
19 to the Declaration of Nicole Diller in Support of Defendant North Star Trust Company’s Motion
20 for Summary Judgment re Statute of Limitations (“Diller Declaration”);

21 b. That portion of the transcript of the deposition of John Hommel attached as
22 Exhibit 66 to the Diller Declaration;

23 5. In addition, under the terms of the Protective Order, the portions of North Star’s
24 memorandum supporting its Motion for Summary Judgment re Statute of Limitations that relate
25 to the documents referenced in subparagraphs (a) and (b) above must also be filed under seal.

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Case No. C06-07339 CW

**[PROPOSED] ORDER GRANTING
DEFENDANT NORTH STAR TRUST
COMPANY'S AMENDED
ADMINISTRATIVE MOTION FOR AN
ORDER TO FILE DOCUMENTS UNDER
SEAL RELATED TO NORTH STAR
TRUST COMPANY'S MOTION FOR
SUMMARY JUDGMENT**

1 Having reviewed Defendant North Star Trust Company's ("Defendant") Administrative
2 Motion for an Order to File Documents Under Seal Related to North Star Trust Company's
3 Motion for Summary Judgment re Statute of Limitations, the Declaration of Nicole Diller in
4 Support of Defendant's Motion, and the papers submitted by Defendant, Defendant's Motion is
5 hereby GRANTED, and the Court orders the following documents sealed:

6 1. Exhibits 7, 20, 21, 22, 23, 41, 42, 44, 46, 52, 55, 57, 59, 60, 61, 71, and 73 to the
7 Declaration of Nicole Diller in Support of Defendant North Star Trust Company's Motion for
8 Summary Judgment re Statute of Limitations ("Diller Declaration");

9 2. That portion of the transcript of the deposition of John Hommel attached as
10 Exhibit 66 to the Diller Declaration;

11 3. The portions of North Star's memorandum supporting its Motion for Summary
12 Judgment re Statute of Limitations that relate to or reference the documents referenced in
13 subparagraphs (a) and (b) above.

14
15 **IT IS SO ORDERED.**

16 Dated: _____

17 _____
18 The Honorable Claudia Wilken
19 United States District Judge

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